



FAIR POLITICAL PRACTICES COMMISSION

428 J Street • Suite 620 • Sacramento, CA 95814-2329

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October 26, 2009

Michael Geller
Moreno Valley Taxpayers Association

REDACTED

Warning Letter Re: FPPC No. 09/717, Moreno Valley Taxpayers Association and Michael Geller

Dear Mr. Geller:

The Fair Political Practices Commission (the "FPPC") enforces the provisions of the Political Reform Act (the "Act").¹ This letter is in response to a complaint filed against you and the Moreno Valley Taxpayers Association ("MVTA") alleging a violation of Sections 84506 and 84506.5 of the Act, the sections pertaining to disclaimers for advertisements. We are closing this matter with a warning letter.

The FPPC has completed its investigation of the facts in this case. The allegation that MVTA violated Section 84506 of the Act, when the committee failed to identify its major contributors of \$50,000 or more is unfounded due to the fact that Section 84506 does not apply to general purpose committees. (Regulation 18450.4 subd. (a).) However, the FPPC found that MVTA violated Section 84506.5 when MVTA produced a mass mailing that qualified as an independent expenditure and failed to include a statement indicating that it was not authorized by the candidate as required.

Section 84506.5 of the Act provides that an advertisement supporting or opposing a candidate that is paid for by an independent expenditure must include a statement indicating that it was not authorized by a candidate or a committee controlled by a candidate. Section 82031 defines an independent expenditure as an expenditure made in connection with a communication

¹ The Political Reform Act is contained in Government Code sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

that expressly advocates the election or defeat of a clearly identified candidate, which is not made at the behest of a candidate.

Your actions violated the Act when MVTA sent a mass mailing supporting candidate Robin Hastings as an independent expenditure but failed to include the statement indicating that it was not authorized by the candidate.

Furthermore, according to MVTA's statement of organization, Form 410, filed with the Secretary of State's office on March 28, 2008, MVTA was classified as a city general purpose committee. However, on MVTA's campaign statement, Form 460, filed with the City Clerk, City of Moreno Valley on January 12, 2009, the committee was classified as a primarily formed committee. Under the Act, a committee can not be both a general purpose committee and a primarily formed committee. MVTA is required to amend one of these statements to reflect the correct classification of MVTA. Please provide the FPPC with a file-stamped copy of the amendment by November 9, 2009.

This letter serves as a written warning. The information in this matter will be retained and may be considered should an enforcement action become necessary based on newly discovered information or future conduct. Failure to comply with the provisions of the Act in the future will result in monetary penalties of up to \$5,000 for each violation.

A warning letter is an FPPC case resolution without administrative prosecution or fine. However, the warning letter resolution does not provide you with the opportunity for a probable cause hearing or hearing before an Administrative Law Judge or the Fair Political Practices Commission. If you wish to avail yourself of these proceedings by requesting that your case proceed with prosecution rather than a warning, please notify us within ten (10) days from the date of this letter. Upon this notification, the FPPC will rescind this warning letter and proceed with administrative prosecution of this case. If we do not receive such notification, this warning letter will be posted on the FPPC's website ten (10) days from the date of this letter.

Please feel free to contact Teri Rindahl at 916-327-2108 with any questions you may have regarding this letter.

Sincerely,

REDACTED

Gary S. Winuk, Chief
Enforcement Division